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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,902	02/28/2002	Graham Castree Charters	GB920000092US1	9251

877 7590 03/30/2005

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EXAMINER

MANIWANG, JOSEPH R

ART UNIT PAPER NUMBER

2144

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/683,902

Applicant(s)

CHARTERS ET AL.

Examiner

Joseph R Maniwang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☒ Claim(s) 2-12, 15-18, 21-31 and 34-37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date see Office Action.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). Applicant claims priority to Application No. UNITED KINGDOM 0105284.4 03/05/2001, filed on 03/05/01.

### ***Information Disclosure Statement***

2. The information disclosure statements (IDS) submitted on 04/26/02, 06/14/02, and 09/10/04 were in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements were considered by the Examiner.

### ***Claim Objections***

3. Claims 2-12, 15-18, 21-31, and 34-37 are objected to because of the following informalities: the recitation of "comprises" in the claims is improper use of grammar. Examiner suggests the correction of "comprise" in place of "comprises". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 2-12, 18, 21-31, 37, 40-50, and 55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. It is unclear in claims 2-12, 21-31, and 40-50 as to what Applicant regards as the invention as the claims merely name components for use in the system, but do not provide any claimed functionality to describe their usefulness. Patent eligibility standard requires significant functionality to be present to satisfy the useful result aspect of the practical application requirement. See MPEP § 2106 [R-2].

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-56 are rejected under 35 U.S.C. 102(e) as being anticipated by Sen et al. (U.S. Pat. No. 6,845,389), hereinafter referred to as Sen.
9. Regarding claims 1, 20, and 39, Sen disclosed a method and system for setting up a communication session between a first user and a second user, where the first user sent a request including QoS requirements (see column 2, lines 2-5). The first user then received a response from the second user with a QoS indicator (see column

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6, lines 14-22), and a second request indicating the second user's QoS requirements (see column 2, lines 5-10). The second user then received an indicator of QoS from the first user (see column 6, lines 33-34), and the the first user and second user then determined a QoS provision to coordinate a communication session (see column 2, lines 10-18; column 6, lines 23-43).

10. Regarding claims 2-12, 18, 21-31, 37, 40-50, and 55, Examiner submits that the first user and second user disclosed by Sen read upon the broadly claimed limitations of comprising a resource component, coordinator, resource manager, resource adapter, database manager, ERP system, transaction manager, and platform-independent program code component as claimed, since the claimed limitations do not disclose any specific functionality further limiting the invention of Applicant.

11. Regarding claims 13 and 32, Sen disclosed performing the communication session setup when a first user logs onto a server (see column 2, lines 46-52; column 3, lines 47-49).

12. Regarding claims 14, 33, and 51, Sen disclosed the server sending a request to the first user to initiate requesting of an QoS indicator as claimed (see column 4, lines 20-26).

13. Regarding claims 15, 34, and 52, Sen disclosed completing QoS provisioning for a communication session (see column 2, lines 42-45), thus disclosing commit phase support as claimed.

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14. Regarding claims 16, 35, and 53, Sen disclosed QoS provisioning to include a request phase and an acknowledgement phase (see column 2, lines 2-18), thus disclosing two-phase commit support as claimed.

15. Regarding claims 17, 36, and 54, Sen disclosed providing QoS guarantees to maintain data integrity in various situations, thus providing recovery support as claimed (see column 7, lines 6-50).

16. Regarding claims 19, 38, and 56, Sen disclosed negotiation of QoS provisions as claimed (see column 6, lines 23-43).

17. Claims 1-56 are rejected under 35 U.S.C. 102(e) as being anticipated by Huang et al. (U.S. Pat. No. 6,446,125), hereinafter referred to as Huang.

18. Regarding claims 1, 20, and 39, Huang disclosed a system comprising a plurality of nodes for setting up a communication session. Each node comprised a request means for requesting an indicator that a corresponding node could support the session. In response to this request, a determination was made whether the session was acceptable, and a response was sent permitting or not permitting the session. In response to determination of session acceptability, the nodes then committed to a session, which included an associated QoS (see column 2, line 34 through column 4, line 21; column 4, lines 29-39).

19. Regarding claims 2-12, 18, 21-31, 37, 40-50, and 55, Examiner submits that the nodes disclosed by Huang, which included resource managers and coordinators (see column 2, line 34 through column 4, line 21) read upon the broadly claimed limitations of

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comprising a resource component, coordinator, resource manager, resource adapter, database manager, ERP system, transaction manager, and platform-independent program code component as claimed, since the claimed limitations do not disclose any specific functionality further limiting the invention of Applicant.

20. Regarding claims 13, 14, 32, 33, and 51, Huang's disclosure of a coordinator node beginning a session by sending a request to intermediate node and lead node pairs reads upon the broadly claimed sever sending a request to a resource and coordinator pair to initiate requesting a QoS indicator.

21. Regarding claims 15, 34, and 52, Huang disclosed a commit sending means (see column 2, line 37), thus disclosing commit phase support as claimed.

22. Regarding claims 16, 35, and 53, Huang disclosed two phases of commit messaging (see column 4, lines 40-49), thus disclosing two-phase commit support as claimed.

23. Regarding claims 17, 36, and 54, Huang disclosed a method of saving resources when a session cannot be sufficiently executed (see column 13, lines 58-63), thus disclosing recovery support as claimed.

24. Regarding claims 19, 38, and 56, Huang disclosed renegotiation of QoS provisions as claimed (see column 4, lines 29-39).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Koistinen et al. (U.S. Pat. No. 6,154,778) disclosed a method and system for negotiating a multi-categor QoS agreement between an client and server.

Chuah (U.S. Pat. App. Pub. 2002/0093936) disclosed a universal mobile telecommunications system QoS that supports the negotiation of asymmetric traffic classes.

Somers (U.S. Pat. No. 6,243,396) disclosed a management system for controlling communication network resources.

Fendick et al. (U.S. Pat. No. 6,252,857) disclosed a method and system for providing provisioned and dynamic QoS in a communications network.

Reininger et al. (U.S. Pat. No. 6,404,738) disclosed dynamic network bandwidth allocation using Soft-QoS requirements.

Ebata et al. (U.S. Pat. No. 6,708,209) disclosed a system using policy servers for setting quality-guaranteed paths in a network.

Koistinen et al. ("Worth-based multi-category quality-of-service negotiation in distributed object infrastructures", Enterprise Distributed Object Computing Workshop, 1998. p. 239 - 249. EDOC '98. Proceedings. Second International, 3-5 Nov. 1998) disclosed a system using dynamic negotiation of QoS.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph R Maniwang whose telephone number is (571) 272-3928. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A Cuchlinski can be reached on (571) 272-3925. The fax phone



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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM



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